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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/056,277	01/24/2002	Douglas R. Lamb	28608/4000	8556

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EXAMINER

CECIL, TERRY K

ART UNIT	PAPER NUMBER
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1723

DATE MAILED: 12/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/056,277

Applicant(s)

LAMB, DOUGLAS R.

Examiner

Mr. Terry K. Cecil

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,4-10,12 and 13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 4-10, 12-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. In view of the appeal Brief filed on 9-7-2004, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below. To avoid abandonment of the application, appellant must exercise one of the following two options: (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or, (2) request reinstatement of the appeal. If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

### ***Claim Objections***

2. Claims 7 and 12 are objected to because of the following informalities:
- In each of claims 7 and 12, in the phrase "further comprises crossbars the topmost edges", a word or punctuation is missing between the words "crossbars" and "the".
- Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:
- The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 7 and 12-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are indefinite because of the following reasons:

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- The following terms lack antecedent basis: “the top side” (claims 7 and 12);
- Since claim 8, includes an o-ring for forming a seal with the receptable, the limitation in claim 13 (depending from claim 8) requiring “the filter assembly and receptacle are fabricated as a single integrated and inseparable unit” is unclear since the respective limitations seem to be from mutually exclusive embodiments.

### *Claim Rejections - 35 USC § 102*

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

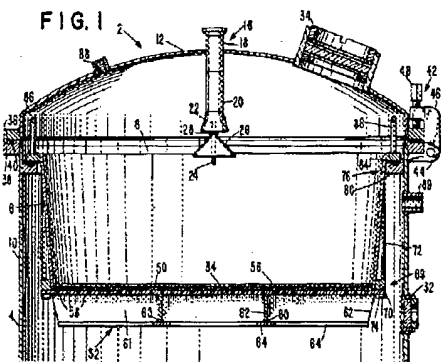
A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(c) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

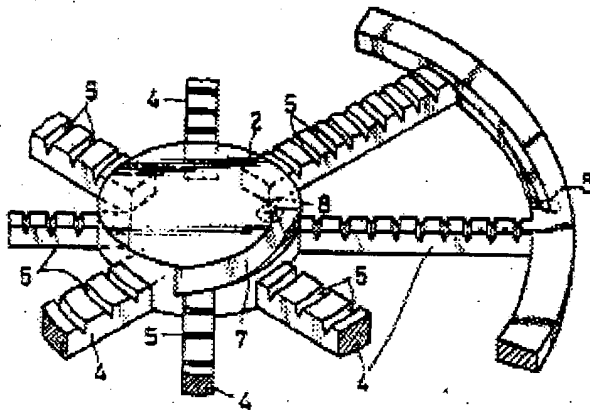
6. Claims 1 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Lyon (U.S. 4,021,354).



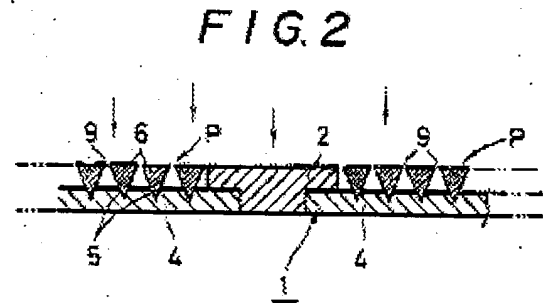
Lyon teaches baffle plates (60, 61) welded to one side of a porous plate 50. The baffles extend perpendicularly from the plate and substantially traverse the width and length of the plate [as in claim 1]. 70 is considered to be the o-ring encircling the plate [as in claim 4].

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7. Claims 1, 4 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Arai (U.S. 4,904,378).

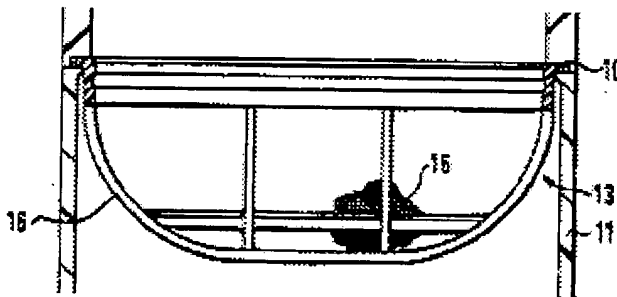


Arai teaches "baffles" 4 attached to a side of a filter 6.



The baffles 4 have a dimension that extends perpendicularly from the filter and would have the ability to perform the claimed motion reducing function [as in claim 1]. Solid hub 2 is considered to be a part of each of the baffles 4. Ring 3 is considered to be the o-ring of claim 4 and the helically-wound, tapered wire 6 that crosses each of the baffles 4 is considered to be the tapered "crossbars" of claim 7, integrally formed.

8. Claims 1 and 4 are rejected under 35 U.S.C. 102(e) as being anticipated by Fuehrer et al. (U.S. 6,458,303).

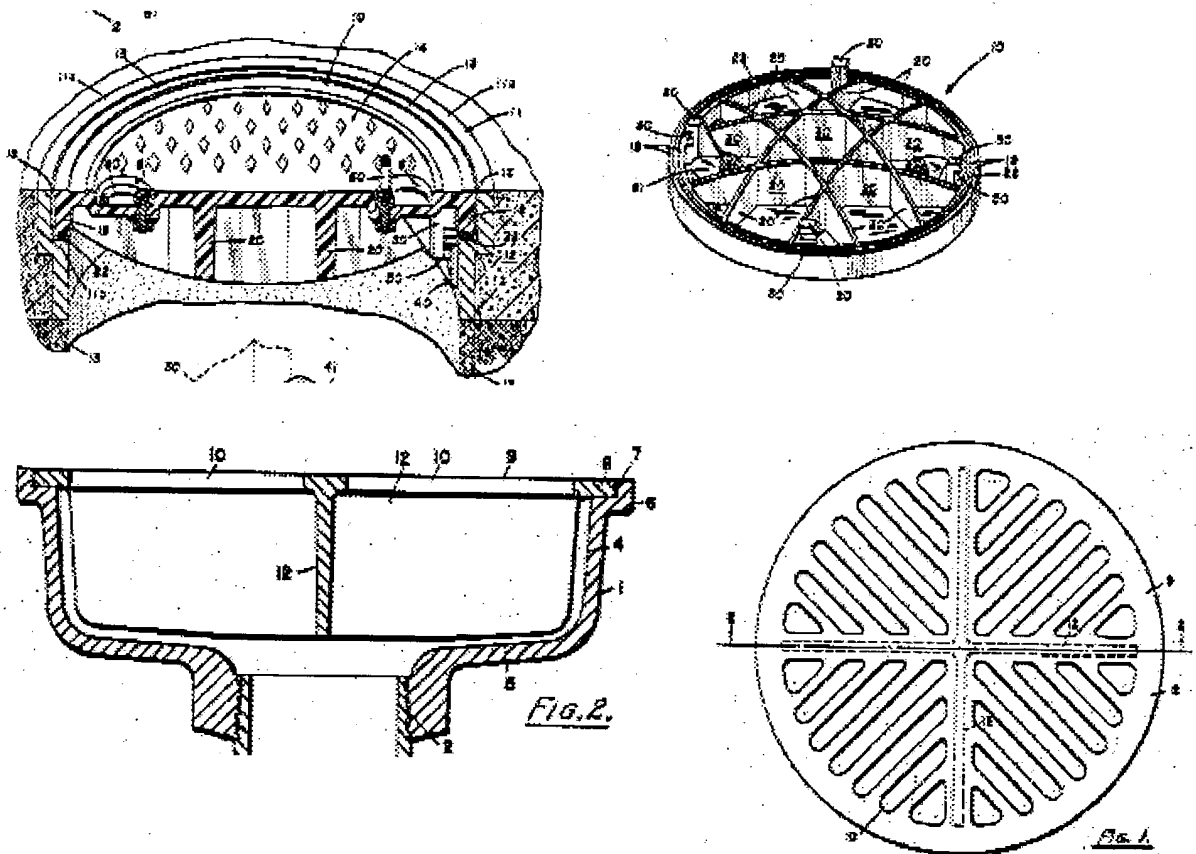


Fuehrer teaches a filter component 15 integrally-formed with ribs (baffles) 16 that have a dimension that extends perpendicularly from the filter and

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which substantially traverse the width and length of the filter (see figure 2) [as in claim 1], wherein o-ring 10 is integrally formed therewith [as in claim 4].

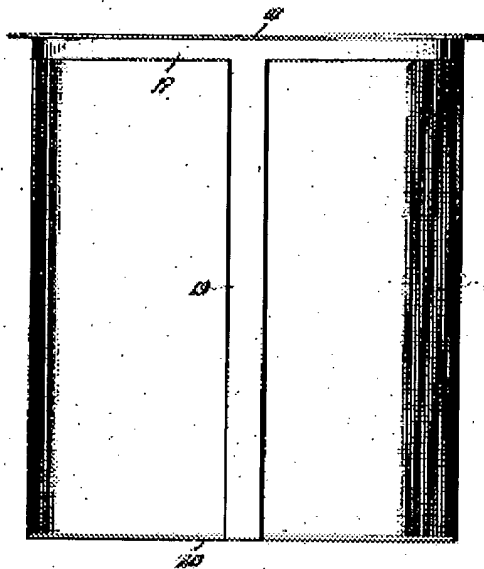
9. Claims 1 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Sauriol et al. (U.S. 3,920,347) OR Schmid (U.S. 2,689,017).



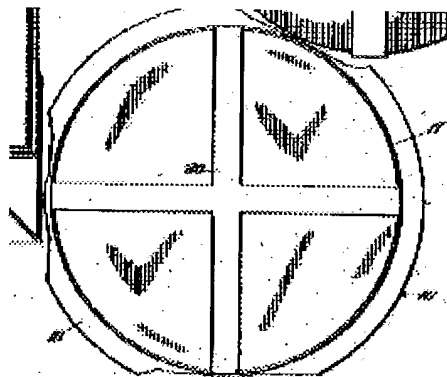
Both Sauriol and Schmid teach porous man-hole covers with perpendicularly extending baffles (20, 12, respectively) that traverse the length and width of the porous plates [as in claim 1]. O-rings are also taught (18/22 and 8, respectively) [as in claim 4].

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10. Claims 1, 4 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Harrington (U.S. 1,349,508).



Harrington teaches a filter component attached to “baffles” 20, wherein the baffles have a

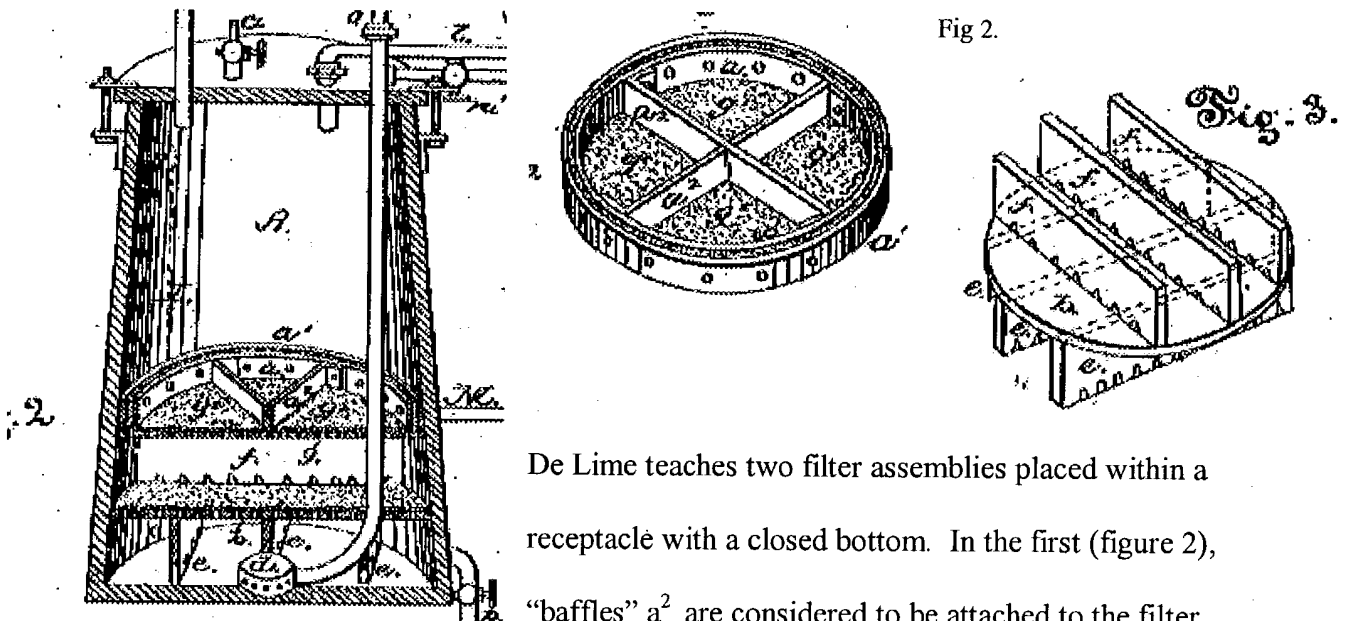


dimension that extends perpendicularly from the filter and traverses the length and width

thereof [as in claim 1]. The filter assembly is positioned within a receptacle (figure 1) [as in claim 8]. A flange 18 is considered to be the o-ring of claim 4 and which can perform the intended use of “for forming a seal with said receptacle” of claim 8, depending upon the size of the receptacle.

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11. Claims 1, 4 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by De Lime (U.S. 267,065).



De Lime teaches two filter assemblies placed within a receptacle with a closed bottom. In the first (figure 2), “baffles”  $a^2$  are considered to be attached to the filter component because of the clamping arrangement. In the second (figure 3), porous plate  $b$  is shown integrally attached to baffles  $(e,f)$ , wherein the baffles extend perpendicularly from the filters and traverse the width and length [as in claims 1 and 8]. Annular ring  $a^1$  or the periphery of plate  $b$  is considered to be the sealing o-ring of claims 4 and 8].

### *Claim Rejections - 35 USC § 103*

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.



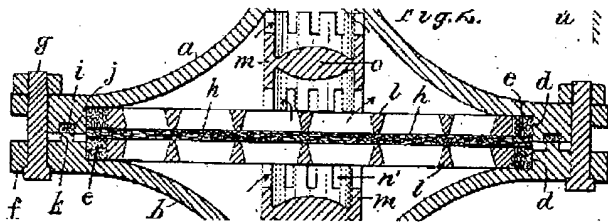
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The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

13. Claims 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Sauriol in view of Walker (U.S. 2,358,750) OR Schmid in view of Walker (U.S. 2,358,750). Walker teaches an aperture 30 (figure 3) formed with a band of material in a porous manhole cover [as in claims 5-6]. It is considered that it would have been obvious to one ordinarily skilled in the art at the time of the invention to have the apertures 30 formed with a band of material of Walker in either of the manhole covers of Sauriol OR Schmid, since Walker teaches the benefit of manhole removal. It would have been obvious to the skilled man for the openings to be large enough to accommodate a finger and thumb so that the covers can be lifted manually.

14. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lyon in view of Fox (U.S. 865,691).



Fox teaches a filter component "1" having a tapered configuration [as in claim 7]. It is considered that it would have been obvious

to one ordinarily skilled in the art at the time of the invention to have the porous plate 50 of Lyon to be tapered as in the lower level of Fox, since Fox teaches the benefit of a porous plate layer

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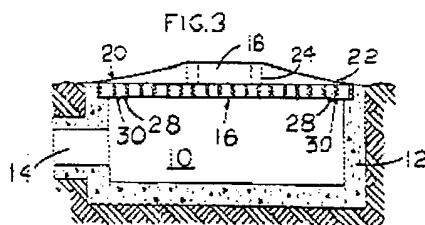
suitable for supporting other filter layers in a pressure-filter environment—as desired by Lyon.

Fox also teaches his filter as being easy to clean.

15. Claims 7 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over De Lime in view of Fox. Fox teaches a filter component “1” having a tapered configuration [as in claims 7 and 12]. It is considered that it would have been obvious to one ordinarily skilled in the art at the time of the invention to have the porous plate 50 of Lyon to be tapered as in the lower level of Fox, since Fox teaches the benefit of a porous plate layer suitable for supporting other filter layers—as desired by De Lime. Fox also teaches his filter as being easy to clean.

16. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over De Lime. It is considered that it would have been obvious to one ordinarily skilled in the art at the time of the invention to have at least the lower filter assembly (figure 3) to be integrally-formed and non-separable with the receptacle, since it has been decided that such is within ordinary skill: see *In re Larson*, 340 F.2d 965, 968, 144 USPQ 347, 349 (CCPA 1965) and would also have the benefit of fewer parts to assemble.

17. Claims 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sauriol in view of Harris et al. (U.S. 6,808,623) OR Schmid in view of Harris.



Sauriol and Schmid have been expanded above. Harris teaches a receptacle 12 having a closed bottom [as in claim 8]. It is considered that it would have been obvious to one

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ordinarily skilled in the art at the time of the invention to have the catch basin receptacle 12 of Harris in either of the inventions of Sauriol and Schmid, since Harris teaches the benefit of a basin that can be used with a removable grate to capture stormwater.

18. Claims 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Sauriol in view of Harris OR Schmid in view of Harris, as applied to claim 8 above and in further view of Walker (U.S. 2,358,750). Walker teaches an aperture 30 (figure 3) formed with a band of material in a porous manhole cover [as in claims 5-6]. It is considered that it would have been obvious to one ordinarily skilled in the art at the time of the invention to have the apertures 30 formed with a band of material of Walker in either of the manhole covers of the modified Sauriol OR Schmid, since Walker teaches the benefit of man-hole removal. It would have been obvious to the skilled man for the openings to be large enough to accommodate a finger and thumb so that the covers can be lifted manually.

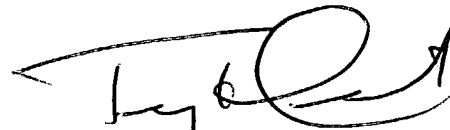
#### ***Response to Arguments***

19. Applicant's arguments with respect to the claims have been considered but are moot in view of the new grounds of rejection.

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20. Contact Information:

- Examiner Mr. Terry K. Cecil can be reached at (571) 272-1138 at the Carlisle campus in Alexandria, Virginia for any inquiries concerning this communication or earlier communications from the examiner. Note that the examiner is on the increased flextime schedule but can normally be found in the office during the hours of 8:30a to 4:30p, on at least four days during the week M-F.
- Wanda Walker, the examiner's supervisor, can be reached at (571) 272-1151 if attempts to reach the examiner are unsuccessful.
- The Fax number for this art unit for official faxes is 703-872-9306.
- Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Mr. Terry K. Cecil  
Primary Examiner  
Art Unit 1723

TKC  
November 28, 2004